

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF THE BRONX

Index #

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ISAAC BOWEN,

Plaintiff,

VERIFIED COMPLAINT

- against -

THE CITY OF NEW YORK, NEW YORK CITY  
POLICE DEPARTMENT, POLICE OFFICER LOUIS  
GUGLIEMO, POLICE OFFICER REBECCA GUZMAN  
and POLICE OFFICERS "JOHN DOE #1-2",

Defendants.  
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The plaintiff, complaining of the defendants, by his attorneys, THE ORLOW FIRM, respectfully shows to this Court and alleges:

1. Upon information and belief, that at all times hereinafter mentioned, the defendant THE CITY OF NEW YORK, was and still is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.
2. Upon information and belief, NEW YORK CITY POLICE DEPARTMENT is a subdivision of the defendant, THE CITY OF NEW YORK.
3. Upon information and belief, that at all times hereinafter mentioned, the defendant, THE CITY OF NEW YORK and NEW YORK CITY POLICE DEPARTMENT, their agents, servants and employees operated, maintained and controlled the 44<sup>th</sup> Precinct, including all the police officers thereof.
4. Upon information and belief, that at all times hereinafter mentioned, and on or prior to the 13<sup>th</sup> day of February, 2012, POLICE OFFICER LOUIS GUGLIEMO, POLICE OFFICER REBECCA GUZMAN and POLICE OFFICERS "JOHN DOE #1-2", were employed by the defendant, NEW YORK CITY POLICE DEPARTMENT, as Police Officers.
5. That a Notice of the Plaintiff's claim, including the nature of the claim and the date of, the time when, the place where and the manner in which the claim arose, was duly served upon The New York City Comptroller's Office, on or about the 24<sup>th</sup> day of February, 2012.
6. That a hearing pursuant to section 50H of the General Municipal Law was held on June 21, 2012.
7. That more than 30 days have elapsed since the Notice of Claim has been served upon the

defendants and the said defendants have neglected or refused to make any adjustment or payment thereof.

8. That this action is commenced within one year and 90 days after the causes of action arose.

**AS AND FOR A FIRST CAUSE OF ACTION FOR NEGLIGENCE AGAINST THE  
CITY OF NEW YORK AND THE NEW YORK CITY POLICE DEPARTMENT**

9. That on or about the 13<sup>th</sup> day of February, 2012, at 1264 Clay Avenue, County of The Bronx, in the City and State of New York, where plaintiff resides, the defendants, their agents, servants and employees improperly detained plaintiff, ISAAC BOWEN.

10. That at the aforesaid date and time while Plaintiff was being detained, Plaintiff was unlawfully and violently assaulted by Defendant, POLICE OFFICER LOUIS GUGLIEMO, POLICE OFFICER REBECCA GUZMAN and POLICE OFFICERS "JOHN DOE #1-2", who threatened and attacked the Plaintiff causing severe and serious physical and psychological injuries to the Plaintiff.

11. It was the duty of the defendants, THE CITY OF NEW YORK and THE NEW YORK CITY POLICE DEPARTMENT, to use reasonable care in the hiring, training and retaining of the police officers in their employ and to supervise those police officers to make sure their interactions with the public are proper.

12. That the Defendants, THE CITY OF NEW YORK and NEW YORK CITY POLICE DEPARTMENT, their agents, servants and/or employees, disregarded their duty to protect the Plaintiff, by negligently hiring and retaining said police officers, failed to adequately train them to act as reasonably prudent police officers and failed to prevent the aforesaid police officers from utilizing a form of cruel and unusual punishment on the aforesaid Plaintiff by threatening, assaulting and attacking the Plaintiff, and inflicting injuries upon the Plaintiff, and took no action to stop these unlawful acts.

13. That Defendants, THE CITY OF NEW YORK and NEW YORK CITY POLICE DEPARTMENT, their agents, servants and/or employees negligently and carelessly failed to take all reasonable and necessary precautions to prevent the aforesaid occurrence.

14. Upon information and belief, that at the time and place aforesaid, the Defendants, THE CITY OF NEW YORK and NEW YORK CITY POLICE DEPARTMENT, had actual knowledge and notice of the vicious and dangerous propensities of the Police Officers who attacked the Plaintiff, or the same had existed for sufficient length of time prior to the occurrence herein alleged that the Defendants could and should have had such knowledge and notice.

15. That solely and wholly as a result of the negligence of the Defendants as aforesaid, Plaintiff suffered severe and serious injuries and Plaintiff has been informed and believes that he will

continue to suffer therefrom for an indefinite time in the future and that some of said injuries are permanent in nature.

16. That by reason of the negligence of the Defendants as aforesaid, the Plaintiff has been damaged in an amount which exceeds the jurisdictional limits of all other courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION FOR NEGLIGENCE**  
**AGAINST POLICE OFFICER LOUIS GUGLIEMO, POLICE OFFICER REBECCA**  
**GUZMAN and POLICE OFFICERS "JOHN DOE #1-2"**

17. Plaintiff repeats, reiterates and realleges each and every allegation contained in the foregoing paragraphs of this complaint with the same force and effect as if set forth fully herein.

18. That it was the duty of the defendants, POLICE OFFICER LOUIS GUGLIEMO, POLICE OFFICER REBECCA GUZMAN and POLICE OFFICERS "JOHN DOE #1-2", to use reasonable care in the execution of their duties as police officers and to act in a reasonably prudent manner in their interactions with the public.

19. That the defendants, POLICE OFFICER GUGLIEMO, POLICE OFFICER GUZMAN and POLICE OFFICERS "JOHN DOE #1-2" and the defendants, THE CITY OF NEW YORK and NEW YORK CITY POLICE DEPARTMENT, their agents, servants and employees negligently, carelessly and recklessly performed their police duties in that they failed to use such care in the performance of their police duties as a reasonably prudent and careful police officer would have used under similar circumstances in that they carelessly, recklessly and negligently detained the plaintiff without making a proper investigation; in that they were negligent, careless and reckless in the manner in which they performed, controlled and conducted their investigation; and in that the defendants, their agents, servants and employees were otherwise careless, reckless and negligent.

20. That by reason of the negligence of the Defendants as aforesaid, the Plaintiff has been damaged in an amount which exceeds the jurisdictional limits of all other courts which would otherwise have jurisdiction.

**PLAINTIFF'S SIXTH CAUSE OF ACTION FOR FALSE ARREST**

21. That on or about the 13<sup>th</sup> day of February, 2012, the Defendants wrongfully and falsely accused, arrested and imprisoned the plaintiff, ISAAC BOWEN, of crimes.

22. That the said arrest and imprisonment was caused by the Defendants, their agents, servants and employees, without any warrant or other legal process and without authority of the law and without any reasonable cause or belief that the Plaintiff was in fact guilty of such crimes.

23. While the plaintiff was so engaged, as aforesaid, the Defendants, POLICE OFFICER

GUGLIEMO, POLICE OFFICER GUZMAN and POLICE OFFICERS "JOHN DOE #1-2", wrongfully and unlawfully, against the Plaintiff's wish, without probable or reasonable cause, and on the sole charge, then made, that Plaintiff was violating the penal law of the State of New York in that he committed crimes, arrested and imprisoned the plaintiff and with full force of arms, forcibly and violently seized, and laid hold of and compelled plaintiff to go with the said defendant police officers to be detained and imprisoned in or near premises known and designated as the 44<sup>th</sup> Precinct located in the County of The Bronx, City and State of New York and continuing to other divers places and times, including, but not limited to, Central Booking, located in the County of The Bronx, City and State of New York, where the plaintiff was further detained and imprisoned until he was released on his own recognizance.

24. That the Defendants, their agents, servants and employees, acting within the scope of their authority and within the scope of their employment, detained and imprisoned the Plaintiff even though the Defendants, their agents, servants and employees knew, had the opportunity to know, or should have known, that the allegations against the plaintiff were wrongful, unlawful and without a sufficient basis in fact.

25. That the Plaintiff was wholly innocent of the said criminal charges and did not contribute in any way to the conduct of the Defendants, their agents, servants and employees and was forced by the Defendants to submit to the aforesaid arrest and imprisonment thereto entirely against his will.

26. That as a result of the aforesaid accusations made by the defendants, their agents, servants and employees acting under their employment and within the scope of their authority, made falsely, publicly, wickedly and maliciously, the plaintiff was compelled to appear before a Judge of the Criminal Court of the City of New York.

27. That the defendants, their agents, servants and employees, as set forth on the aforementioned date, time and place, intended to confine the plaintiff; in that the plaintiff was conscious of the confinement; plaintiff did not consent to the confinement; and the confinement was not otherwise privileged.

28. That by reason of the false arrest, imprisonment and detention of the plaintiff, plaintiff was subjected to great indignities, humiliation and ridicule, in being so detained, charged and prosecuted with various crimes, and greatly injured in his credit and circumstances and was then and there prevented and hindered from performing and transacting his necessary affairs and business, and was caused to suffer much pain in both mind and body, the loss of employment and the loss of employment opportunities.

29. That solely and wholly as a result of the actions of the Defendants as aforesaid, Plaintiff suffered severe and serious injuries and Plaintiff has been informed and believes that he will continue to suffer therefrom for an indefinite time in the future and that some of said injuries are permanent in nature.

30. That by reason of the negligence of the Defendants as aforesaid, the Plaintiff has been damaged in an amount which exceeds the jurisdictional limits of all other courts which would

otherwise have jurisdiction.

### **PLAINTIFF'S SEVENTH CAUSE OF ACTION FOR MALICIOUS PROSECUTION**

31. Plaintiff repeats, reiterates and realleges each and every allegation contained in the foregoing paragraphs of this complaint with the same force and effect as if set forth fully herein.

32. That on or about the 13<sup>th</sup> day of February, 2012 while the plaintiff was lawfully and properly 1264 Clay Avenue, in the County of The Bronx, City and State of New York, and at subsequent times thereafter, including but not limited to the 44<sup>th</sup> Precinct, County of The Bronx, City and State of New York, the defendants, their agents, servants and employees maliciously prosecuted and detained plaintiff, ISAAC BOWEN, without any just right or grounds therefor.

33. That the plaintiff was and is wholly innocent, and was forced by the defendants to submit to court proceedings.

34. That on or about the 15<sup>th</sup> day of February, 2012, before a Judge of the Criminal Court of the City of New York, the defendants, their agents, servants and employees falsely and maliciously and without probable cause or provocation charged the plaintiff with crimes.

35. That the Defendant, POLICE OFFICER GUGLIEMO, POLICE OFFICER GUZMAN and POLICE OFFICERS "JOHN DOE #1-2", acting in the performance of their employment and within the scope of their authority, testified falsely and withheld vital information before a Judge of the Criminal Court of the City of New York, in the County of The Bronx.

36. That upon examination, the said charges were falsely and maliciously made. That on or about May 18, 2012, the District Attorney in the Criminal Court of the County of New York, dropped all the charges against the plaintiff of the crimes with which he was charged.

37. That the said prosecution and criminal charges and hearings were instituted and procured by the defendants, their agents, servants and employees in this action unlawfully and maliciously and without any reasonable or probable cause whatsoever therefore. That the commencement and/or continuation of the criminal proceedings by the defendants against the plaintiff was without probable cause, with actual malice and was terminated in favor of the plaintiff.

38. That by reason of the aforesaid unlawful and malicious prosecution, the plaintiff was deprived of his liberty, was subjected to great indignity, humiliation, pain and great distress of mind and body and was held up to scorn and ridicule, was injured in her character and reputation, was prevented from attending her usual business and avocation, was injured in her reputation in the community and the said plaintiff has been otherwise damaged.

39. That by reason of the acts of the Defendants as aforesaid, the Plaintiff has been damaged in an amount which exceeds the jurisdictional limits of all other courts which would otherwise have jurisdiction.

### **AS AND FOR A THIRD CAUSE OF ACTION FOR ASSAULT**

40. Plaintiff repeats, reiterates and realleges each and every allegation contained in the foregoing paragraphs of this complaint with the same force and effect as if set forth fully herein.

41. That the Defendant, POLICE OFFICER LOUIS GUGLIEMO, POLICE OFFICER REBECCA GUZMAN and POLICE OFFICERS "JOHN DOE #1-2", intentionally caused Plaintiff, to experience a reasonable apprehension that an immediate, harmful and offensive contact would be applied to his person.

42. By virtue of the aforesaid intentional acts of these defendants, the plaintiff, ISAAC BOWEN, suffered severe and serious injuries as aforesaid.

43. That by reason of the actions of the Defendants as aforesaid, the Plaintiff has been damaged in an amount which exceeds the jurisdictional limits of all other courts which would otherwise have jurisdiction.

### **AS FOR A FOURTH CAUSE OF ACTION FOR BATTERY**

44. Plaintiff repeats, reiterates and realleges each and every allegation contained in the foregoing paragraphs of this complaint with the same force and effect as if set forth fully herein.

45. That the defendants, POLICE OFFICER GUGLIEMO, POLICE OFFICER GUZMAN and POLICE OFFICERS "JOHN DOE #1-2", intentionally caused a harmful and offensive contact to be applied to the person of the Plaintiff, ISAAC BOWEN.

46. By virtue of the aforesaid intentional acts of these defendants, the Plaintiff, ISAAC BOWEN, suffered severe and serious injuries as aforesaid.

47. That by reason of the actions of the Defendants as aforesaid, the Plaintiff has been damaged in an amount which exceeds the jurisdictional limits of all other courts which would otherwise have jurisdiction.

### **AS FOR A FIFTH CAUSE OF ACTION FOR EXCESSIVE FORCE**

48. Plaintiff repeats, reiterates and realleges each and every allegation contained in the foregoing paragraphs of this complaint with the same force and effect as if set forth fully herein.

49. That the Defendants, their agents, servants and/or employees caused, permitted and/or allowed Plaintiff, to be assaulted, as aforesaid and in using excessive and unlawful force during the course of his arrest.

50. That as a result of the foregoing occurrence, Plaintiff sustained internal and external personal injuries and will continue to suffer physical pain and mental anguish as a result thereof, and upon information and belief, the aforesaid injuries are of permanent and lasting nature.

51. That by reason of the actions of the Defendants as aforesaid, the Plaintiff has been damaged in an amount which exceeds the jurisdictional limits of all other courts which would otherwise have jurisdiction.

**AS AND FOR A TENTH CAUSE OF ACTION PURSUANT TO 42 U.S.C. 1983**

52. Plaintiff repeats, reiterates and realleges each and every allegation contained in the foregoing paragraphs of this complaint with the same force and effect as if set forth fully herein.

53. In detaining the Plaintiff, ISAAC BOWEN, Defendant, POLICE OFFICER LOUIS GUGLIEMO, POLICE OFFICER REBECCA GUZMAN and POLICE OFFICERS "JOHN DOE #1-2", used physical force which was clearly excessive in light of the circumstances existing at the time of the arrest and/or detention. Defendants used such force with the intent to inflict unnecessary harm on the plaintiff and such use of force did cause physical and mental injuries to plaintiff.

54. The arrest of Plaintiff and the use of excessive force by the Defendants, POLICE OFFICER LOUIS GUGLIEMO, POLICE OFFICER REBECCA GUZMAN and POLICE OFFICERS "JOHN DOE #1-2", in the detention of the plaintiff, violated plaintiff's right under the Eighth Amendment of the United States Constitution to be free from cruel and unusual punishment and Plaintiff's right under the Fourteenth Amendment of the United States Constitution to due process of law.

55. Plaintiff's detention was made under color of law and under color of the authority of the Defendants, THE CITY OF NEW YORK and NEW YORK CITY POLICE DEPARTMENT, by the Defendants, POLICE OFFICER LOUIS GUGLIEMO, POLICE OFFICER REBECCA GUZMAN and POLICE OFFICERS "JOHN DOE #1-2", as police officers for The City of New York.

56. The violation of Plaintiff's constitutional rights was caused by the implementation of a custom, policy or official act of the Defendants, their agents, servants and employees in that they failed to adequately and properly hire, retain, train, supervise, discipline or in any other way control the behavior and performance of the defendants, their agents, servants and employees and in their hiring practices in the exercise of their police functions and their failure to enforce the laws of the State and City of New York is evidence of the reckless lack of cautious regard for the rights of the public including plaintiff and exhibited a lack of that degree of due care which prudent and reasonable individuals would show in executing the duties of the defendants.


57. The failure of the Defendants, THE CITY OF NEW YORK and NEW YORK CITY POLICE DEPARTMENT, their agents, servants and employees to hire, train, supervise, discipline

or in any other way control the defendants, in the exercise of their functions and their failure to enforce the laws of the City and State of New York was and is carried out wilfully, wantonly, maliciously and with such reckless disregard for the consequences as to display a conscious disregard for the dangers of harm and injury to the citizens of the State and of New York including plaintiff.

58. That by reason of the violations of the Defendants as aforesaid, the Plaintiff has been damaged in an amount which exceeds the jurisdictional limits of all other courts which would otherwise have jurisdiction.

WHEREFORE, Plaintiff demands judgment against the Defendants in an amount which exceeds the jurisdictional limits of all other courts which would otherwise have jurisdiction.

Dated: Flushing, New York  
August 28, 2012



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THE ORLOW FIRM  
By: Brian S. Orlow  
Attorneys for Plaintiff  
Office and P.O. Address  
71-18 Main Street  
Flushing, New York 11367



Re: Bowen, I.

**ATTORNEY VERIFICATION**

I, the undersigned, an attorney admitted to practice in the Courts of New York State, state that I am the attorney of record for the Plaintiff in the within action; I have read the foregoing **SUMMONS AND COMPLAINT** and know the contents thereof, the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true. The reason this verification is made by me and not by the Plaintiff is that the Plaintiff currently resides in a County other than the County in which our office is located. The grounds of my belief as to all matters not stated upon my own knowledge are as follows: Information based on our office file.

I affirm that the foregoing statements are true, under the penalties of perjury.

Dated: Flushing, New York  
September 11, 2012

  
BRIAN S. ORLOW